

REMARKS

Reconsideration and withdrawal of the objections and rejections of this application and consideration and entry of this paper are respectfully requested in view of the amendments and remarks herewith, which place the application in condition for allowance.

Status of Claims

Claims 1, 2, 5-8, 11, and 16 are pending. Claims 1, 2, 5-8, 11 and 16 are currently amended. Claims 3-4, 9-10, 12-15, and 17 are cancelled. No new matter was included in the amendment. Amendments to the claims were amended to comply with the restriction requirement without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents. Further, basis for Claim 5 can be found on lines 24 and 25, page 8 of the application as filed. Therefore, Applicant may choose to file one or more divisional applications to recapture restricted subject matter concurrent with USPTO practice.

Applicant added two compounds to Claim 11. These two compounds are shown below. Basis (line/page) for each compound can be found in the application as filed.

- *N*-{3-cyano-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-1*H*-pyrazol-4-yl}-2,2,2-trifluoroethanesulfonamide (basis - line 21, page 16)
- *N*-{3-cyano-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-1*H*-pyrazol-4-yl}-2,2,2-trifluoro-*N*-(methylsulfonyl)ethanesulfonamide (basis - line 23, page 16)

Inventorship Amendment

Pursuant to 37 CFR 1.48(b), Applicant requests that inventorship of the instant invention be amended by deleting inventors:

- Christelle Lauret; and
- Nigel Derek Arthur Walshe

because the claims originally filed by said inventors are no longer being claimed in this non-provisional application as a result of the restriction requirement. The appropriate fee (§1.17(i)) was concurrently paid with the submission of this response.

Claim Objections

Claims 1-9, 11, and 16 were objected to for containing non-elected subject matter and for allegedly containing punctual informalities regarding optional substituents. Applicant has amended the claims accordingly in view of the elected species, search, examination, and punctuality. Consequently, said objections are deemed moot and Applicant respectfully requests that the two objections be withdrawn.

Rejection under 35 USC § 112, ¶s 1 and 2

¶1 The Action rejected claims 1-9, 11 and 16 as allegedly containing non-enabling subject matter. While Applicant respectfully disagrees, Applicant has amended the claims so as to cancel the term “solvate”. Consequently, the rejection is deemed moot and Applicant respectfully requests that said rejection be withdrawn.

¶2 The Action rejected claims 1-9, 11 and 16 for alleged indefiniteness regarding clarity of substituents. Applicant has amended Claim 1 to provide clarity. Basis for R² (cyano) can be found on line 3, page 8 of the application as filed. Therefore, the rejection is deemed moot and Applicant respectfully requests that said rejection be withdrawn.

Rejection under 35 USC 102

The Action rejected claims 1, 5, 7, 8, and 9 under 35 USC 102(e) as allegedly being anticipated by WO2004/0439451. To the extent that the rejection is applicable to the amended claim set, Applicant respectfully traverses the rejection. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference (MPEP §2131). According to *In re Bond*, 910 F.2d 831,832 (Fed Cir. 1990), anticipation under 35 USC §102 requires that “every element of the claimed invention be identically shown in a single reference.” The present claims, as amended, depict an arylpyrazole where R² is cyano. In contrast, WO04/0439451 discloses compounds wherein R¹ (equivalent to R² of

the present invention) is a heterocyclic moiety, as exemplified in the Action. The reference also discloses other substituents for R¹, none of which include cyano. Therefore, since WO04/0439451 fails to disclose each and every element of the instant invention, the anticipatory rejection is deemed moot and Applicants respectfully request that the §102(e) rejection be withdrawn.

Conclusion

In view of the remarks and amendments herewith and those of record and the documents previously submitted, the application is in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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